

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Shadman Khan	Team: Squad #12	CCRB Case #: 202003614	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 05/27/2020 7:00 PM, Wednesday, 05/27/2020 7:00 PM	Location of Incident: Stagg Street and Leonard Street, 90th Precinct Stationhouse	Precinct: 90	18 Mo. SOL 11/27/2021	EO SOL 5/4/2022	
Date/Time CV Reported Thu, 05/28/2020 1:38 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Thu, 05/28/2020 1:38 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. PO Volkan Maden	14352	956863	090 PCT
2. POM Michal Jalbrzykowski	21736	959710	090 PCT
3. POM Vincent Piselli	30526	946110	090 PCT
4. SGT Jared Delaney	02913	952653	090 PCT
5. Officers			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Charles Novak	22063	962641	090 PCT
2. POM John Wai	18630	931391	090 PCT
3. POM Jowel Ahmed	13662	967742	090 PCT
4. LT Timothy Fox	00000	944571	090 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Michal Jalbrzykowski	Abuse: At Stagg Street and Leonard Street in Brooklyn, Police Officer Michal Jalbrzykowski stopped the vehicle in which was an occupant.	
B.POM Michal Jalbrzykowski	Force: At Stagg Street and Leonard Street in Brooklyn, Police Officer Michal Jalbrzykowski used physical force against § 87(2)(b)	
C.SGT Jared Delaney	Abuse: At Stagg Street and Leonard Street in Brooklyn, Sergeant Jared Delaney frisked § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
D.PO Volkan Maden	Abuse: At Stagg Street and Leonard Street in Brooklyn, Police Officer Volkan Maden frisked § 87(2)(b)	
E.SGT Jared Delaney	Abuse: At Stagg Street and Leonard Street in Brooklyn, Sergeant Jared Delaney searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
F.PO Volkan Maden	Abuse: At Stagg Street and Leonard Street in Brooklyn, Police Officer Volkan Maden searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
G.PO Volkan Maden	Abuse: At Stagg Street and Leonard Street in Brooklyn, Police Officer Volkan Maden searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
H.PO Volkan Maden	Abuse: At Stagg Street and Leonard Street in Brooklyn, Police Officer Volkan Maden threatened to arrest individuals.	
I.PO Volkan Maden	Abuse: At Stagg Street and Leonard Street in Brooklyn, Police Officer Volkan Maden threatened to arrest § 87(2)(b)	
J.PO Volkan Maden	Abuse: At Stagg Street and Leonard Street in Brooklyn, Police Officer Volkan Maden threatened to arrest § 87(2)(b)	
K.PO Volkan Maden	Force: At Stagg Street and Leonard Street in Brooklyn, Police Officer Volkan Maden used physical force against § 87(2)(b)	
L.PO Volkan Maden	Off. Language: At Stagg Street and Leonard Street in Brooklyn, Police Officer Volkan Maden made remarks to an individual based upon the gender of an individual.	
M.PO Volkan Maden	Discourtesy: At Stagg Street and Leonard Street in Brooklyn, Police Officer Volkan Maden spoke discourteously to an individual.	
N.PO Volkan Maden	Abuse: At Stagg Street and Leonard Street in Brooklyn, Police Officer Volkan Maden threatened an individual with the use of force.	
O.PO Volkan Maden	Force: At Stagg Street and Leonard Street in Brooklyn, Police Officer Volkan Maden used physical force against § 87(2)(b)	
P.PO Volkan Maden	Discourtesy: At Stagg Street and Leonard Street in Brooklyn, Police Officer Volkan Maden spoke discourteously to individuals.	
Q.POM Vincent Piselli	Discourtesy: At Stagg Street and Leonard Street in Brooklyn, Police Officer Vincent Piselli spoke discourteously to individuals.	
R.PO Volkan Maden	Discourtesy: En route to the 90th Precinct stationhouse, Police Officer Volkan Maden spoke discourteously to § 87(2)(b)	
S.PO Volkan Maden	Discourtesy: En route to the 90th Precinct stationhouse, Police Officer Volkan Maden spoke discourteously to § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
T.PO Volkan Maden	Off. Language: En route to the 90th Precinct stationhouse, Police Officer Volkan Maden made offensive remarks to § 87(2)(b)	
U. Officers	Abuse: In the 90th Precinct stationhouse in Brooklyn, officers strip-searched § 87(2)(b)	

Case Summary

On May 28, 2020, § 87(2)(b) filed this complaint through the CCRB call processing system on behalf of himself, § 87(2)(b) § 87(2)(b) § 87(2)(b) § 87(2)(b) § 87(2)(b) and other unidentified individuals. § 87(2)(b) did not know § 87(2)(b) § 87(2)(b) § 87(2)(b) § 87(2)(b) and § 87(2)(b) who were identified by the investigation.

On May 27, 2020, at approximately 7:00p.m., in front of Stagg Street and Leonard Street in Brooklyn, Sgt. Jared Delaney, PO Michal Jalbrzykowski, and PO Volkan Maden from the 90th Precinct were on patrol together. PO Jalbrzykowski stopped a vehicle in which § 87(2)(b) § 87(2)(b) § 87(2)(b) and § 87(2)(b) were occupants (**Allegation A: Abuse of Authority**, § 87(2)(g) PO Jalbrzykowski pulled § 87(2)(b) out of the driver's seat and pushed him against the vehicle (**Allegation B: Force**, § 87(2)(g) § 87(2)(b) was placed under arrest. Sgt Delaney frisked § 87(2)(b) as he exited the vehicle (**Allegation C: Abuse of Authority**, § 87(2)(g) PO Maden frisked § 87(2)(b) as he exited the vehicle (**Allegation D: Abuse of Authority**, § 87(2)(g) PO Maden entered the vehicle and searched multiple locations for the keys of the vehicle (**Allegation E: Abuse of Authority**, § 87(2)(g) (**Allegation F: Abuse of Authority**, § 87(2)(g) (**Allegation G: Abuse of Authority**, § 87(2)(g)

A crowd of civilians, including § 87(2)(b) and § 87(2)(b) gathered at the location. PO Maden then exited the vehicle and stated to § 87(2)(b) § 87(2)(b) § 87(2)(b) § 87(2)(b) and other individuals, "I'm ordering all of you to leave or you're getting arrested for failure to disperse." (**Allegation H: Abuse of Authority**, § 87(2)(g) (**Allegation I: Abuse of Authority**, § 87(2)(g) (**Allegation J: Abuse of Authority**, § 87(2)(g) PO Maden approached § 87(2)(b) grabbed both of his arms, pushed § 87(2)(b) against a vehicle, and placed him under arrest (**Allegation K: Force**, § 87(2)(g) During this time, a child riding a bike stated something to PO Maden while riding by. PO Maden responded by stating, "Get back here. You pussy, you can't take me" (**Allegation L: Offensive Language**, § 87(2)(g) (**Allegation M: Discourtesy**, § 87(2)(g) (**Allegation N: Abuse of Authority**, § 87(2)(g) PO Maden approached § 87(2)(b) pushed him against a vehicle, and arrested him (**Allegation O: Force**, § 87(2)(g) PO Maden turned toward the civilians and stated, "You're the fucking racist. Look at you, why you bringing that up?" (**Allegation P: Discourtesy**, § 87(2)(g) PO Vincent Piselli from the 90th Precinct responded on scene and spoke discourteously to unidentified individuals (**Allegation Q: Discourtesy**, § 87(2)(g)

PO Maden drove back to the precinct stationhouse in the same vehicle as § 87(2)(b) While in the vehicle, PO Maden made the statement, "Fuck you. Fuck ya'll fuck your neighborhood, fuck these shithole apartments" (**Allegation R: Discourtesy**, § 87(2)(g) (**Allegation S: Discourtesy**, § 87(2)(g) (**Allegation T: Offensive Language**, § 87(2)(g)

While at the 90th Precinct stationhouse, § 87(2)(b) was told to take off his shorts and give it to the officers (**Allegation U: Abuse of Authority**, § 87(2)(g) § 87(2)(b) § 87(2)(b) and § 87(2)(b) were arrested as a result of this incident. § 87(2)(b) was given a summons for failure to signal lane change and disorderly conduct. § 87(2)(b) and § 87(2)(b) were given a summons for disorderly conduct.

The investigation received BWC video (Board Review 01, Board Review 02; summarized in Board Review 03 – Board Review 13). The investigation received cellphone video of the incident from § 87(2)(b) and § 87(2)(b) (Board Review 14, Board Review 16; summarized in Board Review 15, Board Review 17).

Findings and Recommendations

Allegation (A) Abuse of Authority: At Stagg Street and Leonard Street in Brooklyn, Police Officer Michal Jalbrzykowski stopped the vehicle in which § 87(2)(b) § 87(2)(b)

§ 87(2)(b) and § 87(2)(b) were occupants.

It is undisputed that on May 27, 2020, at approximately 7:00p.m., in front of Stagg Street and Leonard Street in Brooklyn, PO Jalbrzykowski stopped a vehicle in which § 87(2)(b) § 87(2)(b) and § 87(2)(b) were occupants.

In § 87(2)(b) statement to the CCRB (Board Review 26), he stated that he was at a park with § 87(2)(b) § 87(2)(b) and § 87(2)(b) for approximately one hour before the group went into § 87(2)(b) car to take her home. § 87(2)(b) sat in the driver seat and § 87(2)(b) sat in the front passenger seat. § 87(2)(b) sat in the rear passenger seat and § 87(2)(b) sat in the rear driver seat. While driving, § 87(2)(b) saw an unmarked vehicle following him. § 87(2)(b) stopped the vehicle at the intersection of Stagg Street and Leonard Street in order to allow § 87(2)(b) to exit the vehicle and go to her apartment. Immediately after § 87(2)(b) stopped the vehicle, the unmarked car that was behind § 87(2)(b) flashed its lights and sirens. PO Jalbrzykowski, PO Maden, and Sgt. Delaney exited their vehicle. PO Jalbrzykowski approached the driver side of the vehicle while PO Maden approached the front passenger side and Sgt. Delay stayed at the back of the vehicle. PO Jalbrzykowski asked § 87(2)(b) for his license and registration. § 87(2)(b) asked PO Jalbrzykowski multiple times why he had been pulled over while PO Jalbrzykowski repeatedly asked for his license and registration. § 87(2)(b) ultimately provided the requested documentation. PO Jalbrzykowski later informed § 87(2)(b) that he had been stopped because he had failed to signal when he pulled over. § 87(2)(b) did not inform the CCRB whether he had committed this violation but stated that he denied that he had when he spoke with the officers. § 87(2)(b) received a summons in connection with this violation.

In PO Jalbrzykowski's BWC video (Board Review 01), at approximately 00m22s in the recording, PO Jalbrzykowski exits his vehicle and walks toward a white Nissan Altima. The Nissan is fully stopped in of a bike lane. At approximately 00m30, PO Jalbrzykowski approaches § 87(2)(b) in the driver side window and asks him to roll down all the windows of the car. PO Jalbrzykowski also instructs him to provide his license, vehicle registration, and vehicle insurance. After a few moments, § 87(2)(b) provides PO Jalbrzykowski with some paperwork from the front passenger side and § 87(2)(b) provides his license. At 01m35s, PO Jalbrzykowski informs § 87(2)(b) that when he was pulling over, he did not signal and stopped in a bike lane. At 01m43s, § 87(2)(b) responds, "That's cuz we home. We about to let somebody out." § 87(2)(b) is then heard stating, "So when you pull to the side, you gotta signal? They didn't put that on the drivers test."

In PO Jalbrzykowski's memo book (Board Review 68), an entry was made at 7:06p.m. regarding an investigation of a possible crime regarding a suspicious vehicle. The memo book gives a final disposition of a crime arrest made.

In PO Jalbrzykowski's statement to the CCRB (Board Review 30), he stated that he was dressed in plainclothes and assigned to Anti-Crime in an unmarked vehicle and was doing routine patrol when he observed a vehicle fail to signal and pull into a bike lane. PO Jalbrzykowski stated this was two separate violations. Since PO Jalbrzykowski was the driver of the vehicle, he ultimately made the decision to stop the vehicle. PO Jalbrzykowski, PO Maden, and Sgt. Delaney approached the vehicle afterwards. PO Jalbrzykowski went to the driver side of the vehicle while PO Maden went to the rear passenger side and Sgt. Delaney the rear driver side. PO Jalbrzykowski asked the driver,

§ 87(2)(b) for his license, registration, and insurance. PO Jalbrzykowski intended to issue a summons for failure to signal at the time. PO Jalbrzykowski explained that his memo book entry of a “suspicious vehicle” was just how the job came up with the new application even though this was not what it really meant.

The investigation received the summons report prepared for § 87(2)(b) (Board Review 40). § 87(2)(b) was charged with violation code 1163D – Failed to signal lane change. The report was prepared by PO Jalbrzykowski.

Turning movements and required signals. The signals provided for in section eleven hundred sixty-four shall be used to indicate an intention to turn, change lanes, or start from a parked position and not be flashed on one side only on a parked or disabled vehicle, or flashed as a courtesy or “do pass” signal to operators of other vehicles approaching from the rear. NYS Vehicle and Traffic (VAT) Chapter 71, Title 7, Article 28 (Board Review 41).

All parties agree that PO Jalbrzykowski informed § 87(2)(b) that he was stopped due to failure to signal as he pulled over. § 87(2)(b) affirmed that he stopped the vehicle but did not clarify if any signals were used. However, PO Jalbrzykowski’s BWC video captured § 87(2)(b) responding to PO Jalbrzykowski’s statement regarding his failure to signal with, “That’s cuz we home.” Additionally, § 87(2)(b) is then heard stating, “So when you pull to the side, you gotta signal? They didn’t put that on the drivers test.” § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation (B) Force: At Stagg Street and Leonard Street in Brooklyn, Police Officer Michal Jalbrzykowski used physical force against § 87(2)(b)

According to § 87(2)(b) after PO Jalbrzykowski informed him that he was pulled over because he failed to signal, § 87(2)(b) asked PO Jalbrzykowski how that could be when he saw the officers following him for several blocks. § 87(2)(b) then told PO Jalbrzykowski to “suck dick,” and that he never would have pulled over the vehicle if there were four white occupants in the car. § 87(2)(b) further stated that PO Jalbrzykowski was racist and targeted the vehicle because the occupants were Black. PO Jalbrzykowski stated, “You know what? Step out of the vehicle. You’re getting arrested.” § 87(2)(b) stepped out of the vehicle and PO Jalbrzykowski handcuffed him against the car. § 87(2)(b) did not make any allegations of force.

§ 87(2)(b) statement to the CCRB (Board Review 24) was generally similar to § 87(2)(b) statement until the point where § 87(2)(b) was asked to step out of the vehicle. According to § 87(2)(b) once § 87(2)(b) exited the vehicle, PO Jalbrzykowski grabbed § 87(2)(b) and “threw” him against the car while instructing § 87(2)(b) to put his hands behind his back.

In PO Jalbrzykowski’s BWC video, at 04m24s, § 87(2)(b) is heard stating that officers are, “dick riding.” PO Jalbrzykowski informs § 87(2)(b) that he will be receiving multiple summonses. § 87(2)(b) tells PO Jalbrzykowski, “Suck my dick,” in an elevated volume, to which PO Jalbrzykowski responds, “Say one more thing and you’re coming with us.” No crowd of civilians appears to have gathered at this time. At 04m54s, § 87(2)(b) states something indiscernible and PO Jalbrzykowski opens the driver side of the door. PO Jalbrzykowski instructs § 87(2)(b) to step out of the vehicle while placing handcuffs on § 87(2)(b) right wrist. § 87(2)(b) exits the vehicle and PO Jalbrzykowski handcuffs both of his hands behind his back. PO Jalbrzykowski

escorts § 87(2)(b) to the back of the vehicle. PO Jalbrzykowski does not place § 87(2)(b) against the vehicle during the handcuffing process.

According to PO Jalbrzykowski, after he asked § 87(2)(b) for his driver license, registration, and insurance, the occupants of the vehicle yelled loudly and caused a crowd to gather. § 87(2)(b) used discourteous language and did not stop when he was warned that he was being disorderly. PO Jalbrzykowski opened the door of the vehicle and placed handcuffs of § 87(2)(b). PO Jalbrzykowski denied using any force against § 87(2)(b). PO Jalbrzykowski only put § 87(2)(b) hands behind his back and handcuffed him.

§ 87(2)(g)

Allegation (C) Abuse of Authority: At Stagg Street and Leonard Street in Brooklyn, Sergeant Jared Delaney frisked § 87(2)(b)

Allegation (D) Abuse of Authority: At Stagg Street and Leonard Street in Brooklyn, Police Officer Volkan Maden frisked § 87(2)(b)

According to § 87(2)(b) once § 87(2)(b) was in handcuffs, PO Maden instructed everyone to exit the vehicle. Once § 87(2)(b) exited the vehicle, PO Maden approached him and “patted him down.” PO Maden did not place his hands inside § 87(2)(b) pockets. PO Maden proceeded to frisk § 87(2)(b) legs, shoulders, and arms. § 87(2)(b) then walked to the sidewalk next to § 87(2)(b) and § 87(2)(b).

In Sgt. Delaney’s BWC video, entitled SGT DELANEY 2020-05-27_19-07-28 (Board Review 02; summary in Board Review 13), at 05m20s, Sgt. Delaney instructs the occupants of the vehicle to exit the vehicle. Starting at 05m23s, § 87(2)(b) exits the vehicle from the rear driver side. Once § 87(2)(b) exits the vehicle, he immediately raises his arms above his head. At 05m25s in the recording, § 87(2)(b) left pants pocket is visible, and no bulge is discernible. At 05m26s, Sgt. Delaney moves forward and touches the exterior of § 87(2)(b) front left pants pocket by patting it. No bulge is discernible in the video footage. The video does not show if Sgt. Delaney frisks any other parts of § 87(2)(b) body.

In PO Maden’s BWC video, entitled 2020-05-27_19-07-16.AVI (Board Review 01; summary in Board Review 08), at 05m36s into the video, § 87(2)(b) exits the vehicle from the rear passenger side. Once outside of the vehicle, § 87(2)(b) states, “No weapons. Just phones. Do you want to search, too?” PO Maden is heard responding, “I’ll just pat you down,” as he moves closer to § 87(2)(b) whose back is to PO Maden. The camera briefly shows PO Maden’s right hand as he moves it to the front left pocket area of § 87(2)(b). He then states, “Alright, have a good day, sir,” as § 87(2)(b) walks to the sidewalk. The video does not show if there are any bulges in the areas frisked.

In PO Jalbrzykowski’s BWC video, entitled 2020-05-27_19-07-20 (Board Review 01; summarized in Board Review 04), starting at 05m38s into the video, § 87(2)(b) can be seen on the right rear side of a vehicle. At 05m41s, § 87(2)(b) is depicted facing towards the vehicle with PO Maden directly behind him. Starting at 05m42s in the recording, PO Maden is seen touching the outside of § 87(2)(b) front pants pockets, the front abdomen area, and the rear pant pockets. No bulges are seen in § 87(2)(b) front left pocket.

In Sgt. Delaney’s statement to the CCRB (Board Review 36), he stated that the vehicle was stopped for a failed signal infraction. After PO Jalbrzykowski completed the handcuffing process on § 87(2)(b)

§ 87(2)(b) Sgt. Delaney instructed the other occupants, including § 87(2)(b) to exit the vehicle as well. Sgt. Delaney explained that the occupants were to exit because the vehicle was to be taken to the stationhouse; he did not provide an explanation to the CCRB as to why he intended to remove the vehicle to the stationhouse. Sgt. Delaney stated that the occupants were free to leave. Once § 87(2)(b) exited the vehicle, Sgt. Delaney performed a frisk. Sgt. Delaney frisked the pant pocket areas of § 87(2)(b). Sgt. Delaney had seen a bulge in § 87(2)(b) pant pocket area as he stepped out of the vehicle. The bulge was approximately three to four inches long and appeared to have some weight to it. The object appeared to be bigger than the average phone or wallet. Sgt. Delaney believed the object could have been a knife or a gun but was not sure. Sgt. Delaney did the frisk mainly for his safety. Sgt. Delaney did not search the pockets after the frisk. Sgt. Delaney did not state if he determined anything as a result of the frisk.

In PO Maden's statements to the CCRB (Board Review 32, Board Review 34), he stated he believed the vehicle was stopped for a traffic infraction. The vehicle occupants were made to exit the vehicle, though they were not under arrest. Once the vehicle occupants exited, he frisked one of them, identified by the investigation as § 87(2)(b). PO Maden stated this was done for safety reasons. PO Maden further explained that in the Anti-Crime unit, frisks are done for safety reasons because the people they stop are generally dangerous. PO Maden only recalled frisking one person. PO Maden stated that he frisked § 87(2)(b) entire body and mainly focused on the waistband area. PO Maden stated that the frisk was a routine procedure for his assignment to Anti-Crime. PO Maden did not state if anything was recovered as a result of the frisk.

A frisk is authorized when the member of the service reasonably suspects the person is armed and dangerous. Reasonable suspicion that a person is armed and dangerous may arise from the officer's observations or the facts and circumstance of the encounter, including situations where the officer reasonably suspects that the person committed, is committing, or is about to commit a violent crime, an officer observes something on the person that he/she reasonably suspects is a weapon, statements made by the suspect stopped that they are armed, or information known by the officer that the suspect may be carrying a weapon. Patrol Guide Procedure 212-11: Investigative Encounters (Board Review 45).

The court has held that the mere observation of an undefinable bulge in a person's pocket was insufficient as a basis for a frisk or search. The court noted that, unlike a waistband bulge that was a telltale of a weapon, a pocket bulge could be caused by any number of innocuous objects. The court held that further investigation was required before the police officer could conduct even the minimally intrusive search consisting of placing his hand on the area of the bulge. People v. William 160 A.D.2d 397 (Board Review 70).

Sgt. Delaney stated that the vehicle was stopped due to a signaling infraction. There is nothing inherent in the nature of the infraction that would cause the officers to reasonably believe that the driver or vehicle occupants were armed. Although Sgt. Delaney informed the investigation that he observed a bulge, no such bulge was visible in the video footage. Further, while Sgt. Delaney described the alleged bulge as being approximately three to four inches large that had weight to it and appeared bigger than the average phone or wallet, Sergeant Delaney stated that he could not determine what the object was, including whether it was a knife or a gun. As such, the alleged bulge that he observed was of an undefinable object. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

PO Maden did not articulate that he had any suspicion that § 87(2)(b) was armed or otherwise dangerous. Instead, he described his frisk of § 87(2)(b) – a frisk that encompassed § 87(2)(b)

§ 87(2)(b) front and rear pants pockets and waistband area –as routine procedure for the Anti-Crime unit because the people that they stopped are generally dangerous. However, all parties agree that this vehicle stop was for a traffic infraction, which is not dangerous in nature. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation (E) Abuse of Authority: At Stagg Street and Leonard Street in Brooklyn, Sergeant Jared Delaney searched the vehicle in which § 87(2)(b) § 87(2)(b) § 87(2)(b) and § 87(2)(b) were occupants.

Allegation (F) Abuse of Authority: At Stagg Street and Leonard Street in Brooklyn, Police Officer Volkan Maden searched the vehicle in which § 87(2)(b) § 87(2)(b) § 87(2)(b) and § 87(2)(b) were occupants.

Allegation (G) Abuse of Authority: At Stagg Street and Leonard Street in Brooklyn, Police Officer Volkan Maden searched the vehicle in which § 87(2)(b) § 87(2)(b) § 87(2)(b) and § 87(2)(b) were occupants.

It is undisputed that § 87(2)(b) was the driver of the vehicle at the time it was stopped. It is also undisputed that PO Maden entered the stopped vehicle and conducted a search in multiple locations inside of the vehicle.

According to § 87(2)(b) after he was frisked, he stepped onto the sidewalk and continued to record the incident. A small crowd had formed across the street and down the sidewalk. PO Maden told § 87(2)(b) § 87(2)(b) and § 87(2)(b) to leave the location and instructed the crowd down the street to leave. PO Maden then started to search the front of § 87(2)(b) vehicle. PO Maden searched the glove compartment and the compartment at the base of the steering wheel. PO Maden did not ask for consent before he began to search the vehicle. PO Maden did not retrieve anything from the vehicle. When § 87(2)(b) asked PO Maden what he was searching for and why, PO Maden stated he was searching for the vehicle's keys. § 87(2)(b) did not state where the keys were location. PO Maden did not retrieve anything from the vehicle.

In PO Jalbrzykowski's BWC footage, entitled 2020-05-27_19-07-20 (Board Review 01; summarized in Board Review 04), PO Jalbrzykowski is seen handcuffing § 87(2)(b) and then searching his pants pockets. At 05m35s, Officer Jalbrzykowski removes items from § 87(2)(b) pockets, including keys. PO Maden is seen outside of the vehicle at the time the keys are removed from § 87(2)(b) pockets. At 05m35s in the recording, PO Maden is seen with his head torso inside the front driver area of the vehicle. At 06m01s, an officer can be heard telling the civilians that the officers intend to remove the car from the scene. When § 87(2)(b) asks why, an officer replied that the car was being removed because he had been driving the vehicle.

In PO Maden's BWC video, entitled 2020-05-27_19-07-16 (Board Review 01; summarized in BWC 08). At 06m01s, PO Maden informs § 87(2)(b) that she had to remove her dog from the vehicle because the officers intended to remove the vehicle to the stationhouse. At 06m07s, § 87(2)(b) informs PO Maden that the vehicle belongs to her. At 06m11s, PO Maden informs § 87(2)(b) that the vehicle would be removed to the stationhouse and directs her to remove her dog from the car. At 06m55s, PO Maden asks, "Where is your food?" When § 87(2)(b) approaches the vehicle, PO Maden tells her to step away from the vehicle and adds, "Where is your food? Just tell me." At 06m59s, a male civilian informs PO Maden that the food is in a bag in the back seat of the vehicle. § 87(2)(b) says that her food is on the vehicle dashboard. At 07m08s into the video, PO Maden enters § 87(2)(b) vehicle from the rear driver seat and reaches inside and pulls forward a plastic bag with a paper bag inside. PO Maden opens the bag, looks inside the paper bag, and moves contents inside the bag. He then removes the plastic bag and its contents from the vehicle. It

is unclear what he does with this bag. At 07m34s, PO Maden moves to the driver seat and opens the door. At 07m38s, he removes a plastic takeaway container from the vehicle dashboard, and at 07m43s he asks, "You want this?" After a few seconds, PO Maden enters the vehicle and sits on the driver seat while stating, "Who has the keys?" He then exits the vehicle and asks § 87(2)(b) for the keys. § 87(2)(b) responds, "It's not in the car?" and approaches the vehicle. PO Maden asks § 87(2)(b) to check the vehicle for the keys. At 08m30s, § 87(2)(b) is heard stating, "He might have the keys." A voice states that "he" does not have the keys and PO Maden asks § 87(2)(b) if the keys are in her bag. § 87(2)(b) does not respond to this. At 09m50s, PO Maden enters the driver seat of the vehicle of the vehicle again. The camera moves around as PO Maden appears to look around the vehicle. PO Maden searches the sun visor and roof compartment briefly before stating, "No one is searching the damn car, alright. Give me the keys." PO Maden does not enter the vehicle again after exiting it and asking for the keys. PO Maden does not remove the vehicle to the stationhouse. The footage does not depict any officer speaking with § 87(2)(b) or other occupants of the vehicle to determine the owner of the vehicle.

In his testimony to the CCRB, Sgt. Delaney stated that the vehicle had to be taken back to the precinct stationhouse because it had been illegally parked. Additionally, Sgt. Delaney believe that the vehicle belonged to someone other than the driver. Sgt. Delaney stated that while the vehicle needed to be taken back to the stationhouse, the keys were not given by any civilian.

In his testimony to the CCRB, PO Maden stated that the driver of the vehicle was placed in the back of a police vehicle after the arrest. Sgt. Delaney asked PO Maden to drive the driver's vehicle back to the precinct stationhouse. PO Maden explained that a vehicle is generally taken back to the stationhouse and given back to the driver upon his release. PO Maden asked the other occupants of the vehicle for the keys to the vehicle but did not receive them. The occupants stated that the keys were inside of the vehicle at the time. PO Maden entered the vehicle and looked around the immediate area, including the cupholder, center console, and armrest. PO Maden did not look in the vehicle for any reason other than to find the car keys. No keys were recovered from the vehicle. The vehicle was not removed to the stationhouse afterwards. PO Maden did not explain why the vehicle was not taken.

Circumstances unique to the automobile context justify a search incident to arrest when it is reasonable to believe that evidence of the offense of arrest might be found in the vehicle. Police may search a vehicle incident to the recent occupant's arrest only if the arrestee is within reaching distance of the passenger compartment at the time of the search or it is reasonable to believe the vehicle contains evidence of the offense of arrest. People v Tashbaeva, 35 Misc. 3d 812 (Board Review 43).

Pursuant to the automobile exception to the warrant requirement, a warrantless search of a vehicle is permitted when the police have probable cause to believe the vehicle contains contraband, a weapon, or evidence of crime. Absent probable cause, it is unlawful for a police officer to invade the interior of a stopped vehicle once the suspects have been removed and patted down without incident, as any immediate threat to the officers' safety has consequently been eliminated. People v. Baksh, 113A.D.3d 626 (Board Review 42).

PO Maden, who went on to enter and search the vehicle, stated that Sgt. Delaney instructed him to remove the vehicle from the incident location. As such, a vehicle search allegation was pleaded against Sgt. Delaney under Allegation E. PO Maden's search of the vehicle and PO Maden's search of a bag inside the vehicle are addressed under Allegation F and Allegation G, respectively.

The initial stop of the vehicle was based on the observation of a traffic infraction. Sgt. Delaney

stated that the vehicle had to be removed from the scene because it was illegally parked and because the officers did not know the owner of the vehicle. However, but the footage does not depict any officer attempting to determine whether any of the vehicle occupants were the owner of the vehicle. Further, the BWC footage depicts § 87(2)(b) clearly informing officers that the vehicle belonged to her. As such, the investigation does not credit Sgt. Delaney's stated reason for his intentions to remove the vehicle from the incident location.

All parties agree that the reason for the vehicle stop was a traffic infraction. None of the officers provided testimony to the CCRB or made contemporaneous statements captured in the BWC footage that they suspected the civilians of committing any additional crimes at the time, that the officers believed that the vehicle contained contraband or evidence of a crime. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation (H) Abuse of Authority: At Stagg Street and Leonard Street in Brooklyn, Police Officer Volkan Maden threatened to arrest individuals.

Allegation (I) Abuse of Authority: At Stagg Street and Leonard Street in Brooklyn, Police Officer Volkan Maden threatened to arrest § 87(2)(b)

Allegation (J) Abuse of Authority: At Stagg Street and Leonard Street in Brooklyn, Police Officer Volkan Maden threatened to arrest § 87(2)(b)

It is undisputed that PO Maden threatened multiple civilians with arrest if they did not leave the location.

According to § 87(2)(b) after PO Maden searched the vehicle, § 87(2)(b) was placed into the back of an unmarked vehicle. PO Maden then pulled off his face mask and stated toward § 87(2)(b) and § 87(2)(b) "Everybody go home or I am going to take you to jail right now."

In § 87(2)(b) statement to the CCRB (Board Review 18), he stated that he and his wife, § 87(2)(b) were walking when they saw a commotion. § 87(2)(b) saw that there was a vehicle next to a fire hydrant with plainclothes officers and approximately five people. § 87(2)(b) saw PO Maden enter a vehicle while the five people argued with him. PO Maden exited the vehicle, walked toward the group of civilians, and stated, "I am going to take all of you in."

In § 87(2)(b) statement to the CCRB (Board Review 20), she stated that she was with her husband, § 87(2)(b) when she first noticed the small crowd of 12-15 people. Among the crowd was a white Nissan vehicle and plainclothes officers. § 87(2)(b) observed PO Maden enter the vehicle and attempt to start the car. During this time, three men on the sidewalk asked PO Maden what he was doing and told him that he was not allowed to enter § 87(2)(b) vehicle. PO Maden exited the vehicle and stated towards the group, "I'll arrest all of you. I can take you all in. I can arrest any of you." PO Maden also turned towards the crowd across the street, including § 87(2)(b) and § 87(2)(b) and stated, "I can take all of you in. I can take any of you in."

In PO Maden's BWC video, at approximately 08m40s, PO Maden faces § 87(2)(b) and states his badge number. § 87(2)(b) is seen standing next to § 87(2)(b) on the sidewalk and appears to be recording PO Maden using a cellphone. PO Maden then states, "Go away before you get arrested also." When § 87(2)(b) asks why, PO Maden states, "For disorderly conduct." A female carrying a child and § 87(2)(b) arrive at the incident location during this time. At 09m00s, § 87(2)(b) is heard disputing the fact that PO Maden is in the vehicle. § 87(2)(b) is on a sidewalk approximately eight to ten feet away from PO Maden. PO Maden points toward § 87(2)(b) and states, "You, step back there. Okay but you step back there." § 87(2)(b) turns around and takes a

few steps back and then returns to the same spot. At 10m12s, PO Maden steps past § 87(2)(b) faces multiple civilians on the street, and states, “I’m ordering all of you to leave or you’re getting arrested for failure to disperse. Leave.” PO Maden does not direct a threat toward § 87(2)(b). The civilians remain on the street as PO Maden approaches § 87(2)(b). The civilians are not heard yelling or cursing at an elevated volume during this time. PO Maden does not appear to make statements of arrest to any civilians across a street.

According to PO Maden, he instructed the crowd to disperse multiple times because they were being disorderly. PO Maden did not recall if the crowd was physically interfering with the officers. PO Maden stated he had legal authority to arrest people if they did not leave because they were being disorderly by yelling, cursing, and refusing to leave. PO Maden mainly made the instruction toward the crowd that contained the occupants of the vehicle. PO Maden made the instruction to the crowd on the same side of the street multiple times.

A person is guilty of disorderly conduct when, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, he makes unreasonable noise or congregates with other persons in a public place and refuses to comply with a lawful order of the police to disperse. Disorderly conduct is a violation. Penal Law 240.20: Disorderly Conduct (Board Review 46).

An officer may arrest without a warrant for a petty offense in his presence, including violations and traffic infractions. Patrol Guide 208-01: Law of Arrest (Board Review 47).

All parties agree that PO Maden informed multiple civilians that they could be arrested. BWC footage indicate that PO Maden gave the instruction to leave the area at the same time he stated that the civilians could be arrested. While PO Maden stated he gave the instruction to disperse because the crowd of civilians were being disorderly, BWC footage do not support this determination. The crowd of civilians who were present spoke to PO Maden and protested the arrest and vehicle search but did not otherwise do anything else. The civilians that PO Maden instructed to disperse stood approximately ten feet away from him and were on the sidewalk. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

According to § 87(2)(b) PO Maden turned to the crowd across the street, including herself and § 87(2)(b) and threatened to arrest them. PO Maden’s BWC shows him making a threat of arrest toward individuals on the same street the vehicle was parked on. However, PO Maden is not seen turning to any crowd across the street and threatening to arrest them. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (K) Force: At Stagg Street and Leonard Street in Brooklyn, Police Officer Volkan Maden used physical force against § 87(2)(b)

It is undisputed that PO Maden placed § 87(2)(b) under arrest when he refused to leave the location.

According to § 87(2)(b) once PO Maden instructed § 87(2)(b) and § 87(2)(b) to go home,

§ 87(2)(b) informed PO Maden that he would not leave the scene. PO Maden grabbed § 87(2)(b) by his left and right arm and “threw” him against the white sedan. PO Maden leaned on § 87(2)(b) heavily while he placed the handcuffs on § 87(2)(b). § 87(2)(b) stated that he did not resist at any point.

According to § 87(2)(b) after PO Maden first threatened to arrest the group of individuals across the street, he grabbed one of the men, identified by the investigation as § 87(2)(b) on the street. PO Maden grabbed § 87(2)(b) by his right wrist and shoved the right side of his body against the car. § 87(2)(b) was then placed into the back of an unmarked vehicle.

In PO Maden’s BWC video, at approximately 10m21s, PO Maden approaches a male in a green shirt, identified as § 87(2)(b). PO Maden instructs § 87(2)(b) to leave multiple times. § 87(2)(b) states something and PO Maden grabs his left arm using his left wrist. PO Maden places handcuffs on the left wrist while stating, “You’re not leaving? You’re not leaving? You’re coming too now.” PO Maden grabs § 87(2)(b) right arm and pulls it behind his back. § 87(2)(b) appears to pull his arm forward while stating, “I’m giving her my phone.” At 10m33s, PO Maden pulls § 87(2)(b) right arm downwards and places handcuffs on the right wrist. During this time, § 87(2)(b) and PO Maden move toward a silver unmarked vehicle. Once near the rear driver side of the vehicle, PO Maden appears to push § 87(2)(b) against the vehicle.

According to PO Maden, he did not recall if he pushed § 87(2)(b) against a white sedan, placed handcuffs on him tightly, and leaned against him. PO Maden stated that whenever there is an arrest, a small amount of force is used. PO Maden explained that minimal force was used, which only involved placing handcuffs on § 87(2)(b). PO Maden did not recall if § 87(2)(b) resisted. PO Maden only grabbed § 87(2)(b) arms and hands. PO Maden was shown his BWC video, which contained the arrest of § 87(2)(b). PO Maden stated that he cuffed one of § 87(2)(b) hands and pulled the other hand because § 87(2)(b) pulled away. PO Maden cuffed both hands using minimal force to make sure § 87(2)(b) would not flee.

§ 87(2)(b) was arrested and given a summons for disorderly conduct (Board Review 40).

An arrest can be made without a warrant for an offense when (a) reasonable cause to believe the offense was committed in the officer’s presence, (b) for a crime and reasonable cause exists that the arrested person committed the crime, (c) or for a petty offense in his presence, including violations and traffic infractions. Patrol Guide Procedure 208-01: Law of Arrest (Board Review 47).

The primary duty of all members of the service is to protect human life, including the lives of individuals being placed in police custody. Force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In determining whether the use of force is reasonable, members of the service should consider multiple factors, including the nature and severity of the crime, actions taken by the subject, duration of the action, whether the subject is actively resisting custody or attempting to evade arrest by flight, and presence of hostile crowd or agitators. Patrol Guide Procedure 221-01: Force Guidelines (Board Review 49).

§ 87(2)(b) statement regarding being grabbed and pushed against a vehicle is corroborated in both PO Maden’s BWC video and § 87(2)(b) statement. As seen in the BWC, aside from pulling down § 87(2)(b) hand when he tried to hand his phone to another individual, PO Maden took no other action when placing the handcuffs on § 87(2)(b). Once § 87(2)(b) was walked toward a vehicle, PO Maden pushed and held him against the vehicle § 87(2)(g).

Allegation (L) Offensive Language: At Stagg Street and Leonard Street in Brooklyn, Police Officer Volkan Maden made remarks to an individual based upon the gender of an individual.

Allegation (M) Discourtesy: At Stagg Street and Leonard Street in Brooklyn, Police Officer Volkan Maden spoke discourteously to an individual.

Allegation (N) Abuse of Authority: At Stagg Street and Leonard Street in Brooklyn, Police Officer Volkan Maden threatened an individual with the use of force.

According to § 87(2)(b) there was a child riding a bicycle in the street nearest to the large crowd. As the child rode his bike, he stated something along the lines of, “Fuck this,” toward PO Maden. PO Maden “lunged” toward the child’s direction and yelled that he was going to “get” him. As the child rode away, PO Maden shouted, “Get back here. You pussy, you can’t take me?”

In PO Maden’s BWC video, at approximately 12m51s, PO Maden faces an ambulance driving at the crossroad of the street. A civilian on a bicycle can be seen on the street in front of the ambulance. PO Maden states, “Get out of the street,” twice toward this civilian. A faint voice is heard stating, “[Indiscernible] mad for?” PO Maden immediately responds, “What? Come here. Come here,” as he takes a few steps toward the civilian with the bike. PO Maden does not state anything else to the civilian or pursue any additional action.

PO Maden’s BWC showed the exact moment that § 87(2)(b) alleged PO Maden made the statements toward the child on the bicycle. Since the BWC video did not show PO Maden making any of the alleged statements toward the civilian on the bicycle, § 87(2)(g)

Allegation (O) Force: At Stagg Street and Leonard Street in Brooklyn, Police Officer Volkan Maden used physical force against § 87(2)(b)

In PO Ahmed’s BWC video (Board Review 01), at approximately 00m42s, PO Maden is seen walking quickly toward an individual dressed in a black hooded sweater, identified by the investigation as § 87(2)(b). PO Maden grabs § 87(2)(b) by the right arm and holds it while he pushes him toward a parked vehicle. PO Maden then pushes the male against the vehicle so that his back collides against the vehicle. PO Maden then turns him around and places the male in handcuffs.

According to PO Maden, he recalled that he held § 87(2)(b) against a car on the date of the incident. PO Maden denied pushing anyone against a vehicle. PO Maden used “minimal” force to hold § 87(2)(b) against the vehicle. PO Maden was shown PO Ahmed’s BWC video regarding this incident. PO Maden repeated that § 87(2)(b) was not being pushed. PO Maden clarified that § 87(2)(b) was being arrested, so PO Maden had to grab him in order to arrest him. PO Maden further explained that if civilians were hostile, not following orders, and uncooperative, then they would not be asked to turn around. Instead, the civilian would be physically grabbed and handcuffed, as was the case with § 87(2)(b).

As discussed in Allegation I, the Patrol Guide states that reasonable force may be used to place a person in custody or to prevent escape from custody. § 87(2)(g)

Allegation (P) Discourtesy: At Stagg Street and Leonard Street in Brooklyn, Police Officer Volkan Maden spoke discourteously to individuals.

According to § 87(2)(b) after PO Maden had threatened the child on the bicycle, someone from the crowd stated that PO Maden was acting racist. PO Maden turned toward the crowd and stated, “You’re the fucking racist. Look at you, why you bringing that up?”

In PO Maden’s BWC video, at approximately 13m32s, PO Maden is seen holding § 87(2)(b) after his arrest when a voice is heard stating, “There’s so many white people all over doing shit like this but you all-.” PO Maden interrupts and states, “Stop being racist. Who cares if we’re white?” Immediately afterwards, § 87(2)(b) turns his head to face PO Maden and states, “You being racist. You’re the one that’s aggressive.” PO Maden takes § 87(2)(b) to a police vehicle while stating, “Come on.” PO Maden does not make the statement, “You’re the fucking racist” or otherwise use discourteous language.

§ 87(2)(g)

Allegation (Q) Discourtesy: At Stagg Street and Leonard Street in Brooklyn, Police Officer Vincent Piselli spoke discourteously to individuals.

In PO Piselli’s BWC video (Board Review 01), at approximately 00m40s, PO Piselli walks up to civilians who are yelling towards the officers and disputing an arrest. PO Piselli instructs the civilians to stop yelling and to move back. The female civilian states that officers are being racist. PO Piselli responds, “What the fuck?”

In PO Piselli’s statement to the CCRB (Board Review 38), he responded to the incident location because a call had been made requesting additional units. Once PO Piselli arrived, he saw that there were a small group of civilians. The civilians were being belligerent by speaking very loudly, shouting, and using profanity. PO Piselli attempted to de-escalate the situation by speaking with the civilians that were screaming. PO Piselli attempted to explain what occurred in order to calm the civilians down. PO Piselli did not independently recall making the statement, “What the fuck?” toward the civilians. PO Piselli stated that he reviewed the BWC, and acknowledged that he made the statement, “What the fuck.” PO Piselli stated that based on the BWC, the statement was not directed toward the civilians and was made as a reaction to the statements made by the civilians. PO Piselli did not use the statement in any derogatory or belligerent way towards the civilians.

Officers must value human life, respect the dignity of each individual and render their services with courtesy and civility. Patrol Guide Procedure 200-02 (Board Review 69).

DAO-DCT Disciplinary Case No. 2017-17005 states that in prior disciplinary cases, the NYPD has held that the use of profane remarks during stressful situations or while an officer is trying to get a chaotic situation under control, does not constitute misconduct. However, the courts noted that a stressful situation must be defined narrowly, and that civilians protesting an arrest does not constitute a stressful situation (Board Review 44).

While PO Piselli described the situation as one in which the civilians present were screaming, cursing, and acting overall belligerent, the situation was not so stressful and chaotic that the duty of being courteous and civil as set forth by the Patrol Guide be overridden in order to gain control. As seen in the BWC video, the female civilian only disputed the arrest of another individual and did not take any other action. § 87(2)(g)

Allegation (R) Discourtesy: En route to the 90th Precinct stationhouse, Police Officer Volkan Maden spoke discourteously to § 87(2)(b)

Allegation (S) Discourtesy: En route to the 90th Precinct stationhouse, Police Officer Volkan Maden spoke discourteously to § 87(2)(b)

Allegation (T) Offensive Language: En route to the 90th Precinct stationhouse, Police Officer Volkan Maden made offensive remarks to § 87(2)(b)

The site of the initial interaction with officers occurred at Stagg Street and Leonard Street in Brooklyn. This incident location is immediately outside of § 87(2)(b). A search of the New York City Map Portal reveals that § 87(2)(b) is a New York City Housing Authority (NYCHA) development (Board Review 75). NYCHA is a public housing authority that provides affordable housing for low- and moderate-income New Yorkers.

According to § 87(2)(b) while he was in the backseat of a marked vehicle, PO Maden entered the vehicle and started to drive to the stationhouse. During the drive, PO Maden made that statement, “Fuck you. Fuck y’all, fuck your neighborhood, fuck these shithole apartments.” The statements were directed toward § 87(2)(b).

In PO Maden’s BWC video (Board Review 01; summarized in Board Review 08), at 14m16s, he enters the front passenger seat of the vehicle. At approximately 14m29s, § 87(2)(b) can be heard making multiple statements toward officers stating: “...[indiscernible] did not have a badge on niggers would not act like this, bro. Niggers would not come through these projects like this, bro.” An officer is heard stating, “Why would we?” followed by PO Maden responding, “Why would I come to a shithole? Why would I come to a shithole?” PO Maden does not make the statement, “Fuck you. Fuck y’all fuck your neighborhood, fuck these shithole apartments.”

In his statement to the CCRB, PO Maden stated that no officer made the statements, “Fuck you. Fuck y’all fuck your neighborhood, fuck these shithole apartments,” while inside of the vehicle transporting § 87(2)(b) to the stationhouse. PO Maden recalled that § 87(2)(b) told PO Maden to come to the projects, to which PO Maden responded, “Why would I go there. It’s a shithole.” “It’s a bad place. And he is actually saying that it is a bad place ‘cause if you.. I can vaguely hear him saying, he’s like threatening me, telling me to come to the projects, I think, and then he’s saying that if we didn’t have badges, we wouldn’t go there. And I was agreeing with him. ‘Cause it’s a bad place. Why would I go somewhere where people get shot and killed? It’s a bad place? I’m not going to go there. That’s all I meant by that.” PO Maden stated that he was not being disrespectful to § 87(2)(b) when he made this comment.

According to the New York Police Department’s “Disciplinary System Penalty Guidelines,” offensive language “includes slurs based on membership in a protected class such as race, religion, ethnicity, gender, gender identity, sexual orientation, age, or disability.”

According to the New York City Human Rights Law, effective 2016 (Board Review 77), officers are prohibited from discriminating against civilians based on several factors, including actual or perceived race, national origin, color, creed, age, alienage or citizenship status, gender, sexual orientation, disability, or housing status. Housing status is defined as “the character of an individual’s residence or lack thereof, whether publicly or privately owned, whether on a temporary basis, and shall include but not be limited to:

- i. an individual’s ownership status with regard to the individual’s residence;
- ii. The status if having or not having a fixed residence;
- iii. An individual’s use of publicly assisted housing;

- iv. An individual's use of the shelter system; and
- v. An individual's actual or perceived homelessness.

BWC footage shows that PO Maden did not use the word “fuck,” as alleged by § 87(2)(b) § 87(2)(g)

§ 87(2)(g)

When PO Maden entered the vehicle, he did so to transport § 87(2)(b) to the stationhouse. § 87(2)(b) had already been placed in handcuffs and placed inside of the vehicle where he could not flee and, as such, was under control. While § 87(2)(b) continued to use profanity inside of the vehicle, his behavior did not create a stressful situation. Although PO Maden claimed that he had not been disrespectful when making the comment § 87(2)(g)

As noted in the New York City Human Rights Law, officers are prohibited from discriminating against civilians based upon their housing status. As such, a civilian's residence in or perceived residence in public housing can be considered a protected class. The NYPD's Disciplinary Matrix notes that offensive language includes slurs based on membership in a protected class. As such, derogatory language about a civilian's housing status and use or perceived use of public housing would be impermissible. § 87(2)(g)

Given the verbal exchange documented in PO Maden's BWC footage, it is evident that due to the chronology of the statements, PO Maden's comment is a response to § 87(2)(b) statement that officers “cannot come to these projects like this.” Here, the term “projects” is a reference to the NYCHA developments. Thus, it can be determined that PO Maden's statement “shithole” is in reference to NYCHA development.

In his statement to the CCRB, PO Maden affirmed that his comment was in regards to the NYCHA development. PO Maden further explained that he called the NYCHA development a “shithole” because NYCHA developments are “bad” and prone to violence. However, none of § 87(2)(b) statements required a response, let alone a response that referred to the NYCHA development or that uniformly disparaged NYCHA developments. § 87(2)(g)

Allegation (U) Abuse of Authority: In the 90th Precinct stationhouse in Brooklyn, officers strip-searched § 87(2)(b).

According to § 87(2)(b) once he was placed into a marked police vehicle, he was taken to a precinct stationhouse. Once at the stationhouse, § 87(2)(b) was taken to the front desk, processed, and taken to a holding cell room. § 87(2)(b) was to the back left corner of the room into an enclosed area, where a wall separated the corner of the room and the holding cell. No one from the holding cell was able to see § 87(2)(b) in the enclosed area. Officers instructed § 87(2)(b) to take off his shoes, shoelaces, and string from the basketball shorts that § 87(2)(b) wore underneath his jeans. § 87(2)(b) informed the officers that the string could not be removed from his shorts. The officers informed § 87(2)(b) that he could remove the shorts, or the string could be cut. Officers then told § 87(2)(b) to take off his pants and give the shorts. § 87(2)(b) did so and gave the officer his shorts. § 87(2)(b) put his jeans back on and was taken to a holding cell to wait. § 87(2)(b) did not provide any description for these officers.

A search for arrest reports associated with § 87(2)(b) yielded negative results (Board Review 89).

The investigation received the prisoner holding pen roster from the 90th Precinct. The roster lists § 87(2)(b), § 87(2)(b) and § 87(2)(b) as prisoners from § 87(2)(b). The guarding officer is listed as PO Elwan, Shield number 10625 (Board Review 72).

According to PO Jalbrzykowski, § 87(2)(b) was not strip searched at the stationhouse. PO Jalbrzykowski stated that strings were not allowed in holding cells. If a civilian did not wish to have the string cut from their shorts, then they could just take off the pair of shorts and put their regular pants on. PO Jalbrzykowski did not have any role in lodging any prisoners in the holding cells.

According to PO Maden, he did not go into the holding cell at the precinct. PO Maden did not perform any strip search. PO Maden did not believe any officer conducted a strip search. PO Maden stated that procedurally, all strings from an individual would be removed prior to being placed in a cell.

According to Sgt. Delaney, he did not perform any strip-search. Sgt. Delaney did not recall if § 87(2)(b) was strip searched. Sgt. Delaney did not believe there was any reason for a strip search. People cannot take strings into holding cells. If the civilian could not remove any strings, it would be cut for safety purposes.

When lodging a prisoner in a command/detective squad holding pen, officers must make sure certain guidelines are complied with. Belts, neckties, shoelaces, drawstring, jackets, overcoats, or other similar outer garments that could be used to attempt/commit suicide or assault another shall be removed and stored temporarily where they will not be accessible to the prisoner. Patrol Guide Procedure 210-08: Guidelines for Prisoner Holding Pens (Board Review 50).

§ 87(2)(b) affirmed that he wore shorts underneath his jeans that contained a drawstring at the time of his lodging. § 87(2)(b) further stated that officers gave him the choice to remove the shorts or cut the string prior instructing § 87(2)(b) to give them the shorts. Since the Patrol Guide mandates that prisoners give up any drawstring prior to being placed in a holding cell and § 87(2)(b) informed officers that the drawstring cannot be removed from his shorts, it is deemed reasonable for any officer to request the shorts from § 87(2)(b) during the lodging process. Additionally, § 87(2)(b) was placed in a private location and removed his jeans on his own accord without any officers touching him. § 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 51).
- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 52).
- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 53).
- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 54).
- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 55).
- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 56).
- § 87(2)(b) has been a party to one CCRB complaint and has been named a victim in none of the allegations (Board Review 57).
- PO Jalbrzykowski has been a member of service for six years and has been in a subject 11 CCRB complaints and 32 allegations, of which three were substantiated:
 - 201807314 involved substantiated allegations of discourtesy against PO Jalbrzykowski. The Board recommended command discipline and the NYPD imposed command level instructions.
 - 202001765 involved substantiated allegations of abuse of authority against PO Jalbrzykowski. The Board recommended command discipline and the NYPD imposed no penalty.
- PO Maden has been a member of service for seven years and has been a subject in ten CCRB complaints and 32 allegations, of which 3 were substantiated.
 - 202000861 involved a substantiated allegation of discourtesy against PO Maden. The Board recommended command discipline and the NYPD has not yet imposed discipline.
 - 202001765 involved substantiated allegations of abuse of authority against PO Maden. The Board recommended command discipline and the NYPD imposed no penalty.
- Sgt. Delaney has been a member of service for nine years and a subject in four allegations, none of which were substantiated. § 87(2)(g)
- PO Piselli has been a member of service for 14 years and a subject in seven CCRB complaints and a subject in 14 allegations, none of which were substantiated. § 87(2)(g)

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- As of February 4, 2022, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (Board Review 67).

• [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
 [REDACTED]
 [REDACTED]
 [REDACTED]

